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SUBJECT: RESPONSE TO THE WORKING GROUP ON COMMUNICATION
REGARDING SHAKO SENEGAL MUHAMMAD - GENEVA LOG 77-2009

¶1. Mission is requested to convey to the Working Group on Communications the text of the letter in paragraph 3. This is in response to their communication G/SO 215/1 USA 120. This is item number 77 on the 2009 Geneva Correspondence Log.

¶2. In their letter dated October 7, 2009, the Working Group on Communications forwarded a complaint from Mr. Shako Senegal Muhammad, currently incarcerated at the California State Prison (CSP) Solano. Mr. Muhammad alleges that the California State Prison violates his human rights by placing him in a cell with inmates who allegedly consume pork and who allegedly engage in acts of sodomy. After a thorough legal review of the complaint, the United States Government determined that the communication does not meet the Human Rights Council admissibility requirements and should therefore be dismissed by the Working Group.

¶3. Begin text of letter.

The Government of the United States avails itself of the opportunity to respond to the request of the Working Group on Communications from October 7, 2009 with respect to communication G/SO 215/1 USA 120. For the reasons set forth below, the communication does not meet the Human Rights Council admissibility requirements. Accordingly, the United States respectfully requests that the Working Group dismiss the communication.

¶I. Summary of the allegations contained in the communication.

In a one-page communication to the United Nations, Shako Senegal Muhammad alleges that California State Prison (CSP) Solano violates his human rights by placing him in a cell with inmates who allegedly consume pork and who allegedly engage in acts of sodomy.

II. Admissibility under the Human Rights Council complaint procedure.

A communication is admissible under the Human Rights Council Complaint Procedure provided it meets the criteria set forth in Section IV.B of HRC resolution 5/1. A communication is only admissible if it &gives a factual description of the alleged violations, including the rights which are alleged to be violated.⁸ (HRC resolution 5/1, para 87(b)). It must be &reliably attested⁸ and &accompanied by clear evidence.⁸ (HRC resolution 5/1, para 87(d)). Also, the Petitioners must first exhaust all domestic remedies (HRC resolution 5/1, para 87(g)).

¶A. The communication lacks a description of the rights, alleged to be violated.

Mr. Muhammad,s communications argues generally that observing what his cellmates eat and do violates his human rights. He mentions the Universal Declaration of Human Rights generally, &(t)he Universal Declaration of Human Rights is profoundly disregarded when Muslims are

concerned.⁸ However, he does not allege that any of his rights under the Universal Declaration were violated and does not cite to any specific right. Instead he argues that his rights &(a)ccording to the Cairo Declaration on Human Rights in Islam⁸ were violated, without specifying a specific article or right or articulating the status of the particular provisions at issue in this non-universally accepted document.

As the Petitioner does not give a &factual description of the alleged violations, including the rights which are alleged to be violated,⁸ the communication is inadmissible.

1B. The communication lacks reliable attestation and clear evidence.

Mr. Muhammad does not provide any support for his allegations. He does not provide a witness or documentation supporting his account. As the Petitioner did not present a &reliably attested⁸ communication or &clear evidence,⁸ the communication is inadmissible.

1C. The petitioners failed to exhaust all domestic remedies or explain why such remedies would be ineffective or unreasonably prolonged.

Under HRC resolution 5/1, para 87(g), a communication is admissible only if &domestic remedies have been exhausted, unless it appears that such remedies would be ineffective or unreasonably prolonged.⁸ Here, the Petitioner failed to exhaust his remedies or explain how attempting to do so would be ineffective or unreasonably prolonged. Accordingly, the Petitioner failed to meet the requirements of para 87(g) and the communication is inadmissible.

The doctrine of exhaustion of local remedies ensures that the State where a human rights violation has allegedly occurred has the opportunity to provide redress within the framework of its domestic legal system. The U.S. legal system provides a comprehensive system of remedies that serve to prevent human rights abuses and provide relief to their victims. The available remedies can result in criminal punishment against the individuals responsible for the violations, injunctive relief aimed at improving an entire institution or system, and/or monetary damages or reparations to the victims. Not only do states have administrative complaint mechanisms to hear and adjudicate inmates, grievances, but courts have jurisdiction over and frequently hear allegations of inmate mistreatment.

Mr. Muhammad does not state that he has sought a domestic remedy or explain why such remedy would be unavailable. Because Petitioner failed to meet the exhaustion requirement, his communication is inadmissible.

III. Conclusion

In conclusion, the Working Group should find the communications in G/SO 215/1 USA 120 to be inadmissible. First, Petitioner did not give &a factual description of the alleged violations, including the rights which are alleged to be violated.⁸ Second, he did not present a &reliably attested⁸ communication, nor present any &clear evidence.⁸

Rather, the communication states two grievances, with no support or substantiation. Finally, the Petitioners failed to exhaust all domestic remedies, in the California state administrative process and in state and/or federal courts. For each of these reasons, we respectfully request that the Working Group dismiss these communications.

14. End text. Appreciate Mission's assistance.
CLINTON